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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/609,646	07/03/2000	Steven W. Tepler	32801-888888	3621

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EXAMINER

CURCIO, JAMES A F

ART UNIT PAPER NUMBER

2122

DATE MAILED: 09/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/609,646	TEPLER, STEVEN W.	
	Examiner	Art Unit	
	James Curcio	2122	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 22-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) ✓
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 5/17/04 ✓
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Original claims 1-21 of application 09/609646 are cancelled though previous rejection is included for reference. Claims 22-37 of the same application are pending.

Response to Arguments

1. Applicant's arguments filed May 17, 2004 have been fully considered but they are not persuasive. Applicant states "Fischer describes a system that associates time with identity, and not the content of a file" whereas the application's disclosed invention associates time with the content of a file. Examiner interprets the content of the file in Fischer to include the identity of the document and its presenter. Therefore, this association of time with identity constitutes an association between the time and content of the file. The value to be signed also constitutes content trusted after a signature is included with the content.

2. Despite Applicant's statements to the contrary, the Examiner respectfully submits that Fischer does teach a means for saving the file at a moment in time (Figure 1, element 4; col. 7:13-20, 45-48; and col. 8:47-57), a means for retrieving from the trusted time source a data and a time corresponding to the moment in time (col. 4:49-53; col. 7:51-53; Fig. 2, element 26), and a means for saving the file with the certificate appended thereto (Figure 1, element 4; col. 7:13-20, 45-48; and col. 8:47-57), as discussed in the previous Office Action reformulated below to address claims 22-37.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-6, 8-11, and 15-21 (cancelled but repeated for reference); 22-23, 25-27, 30-31, and 33-35 are rejected under 35 U.S.C. 102(b) as being anticipated by Fischer (US005422953A).

5. As per claims 1 and 9, Fischer discloses a computer means (Figure 3, element 1), a trusted time source (Figure 3, elements 12 and 14), an API means (column 4, lines 49-53; column 7, lines 51-53; and Figure 2, element 26), an appending means (column 7, lines 13-20 and 53-56), and a saving means (Figure 1, element 4; column 7, lines 13-20 and 45-48; and column 8, lines 47-57).

6. As per claim 10, in addition to the teachings applied above, Fischer discloses a system clock (Figure 3, elements 12 and 14), an operating system means (column 3, lines 25-30), an application (column 8, lines 23-26), and a providing step (abstract; column 4, lines 49-53; column 7, lines 51-53; Figure 2, element 26; and column 11, lines 56-60).

7. As per claims 2 and 11, in addition to the teachings applied above, Fischer discloses a means for signing said saved file (column 7, lines 6-19 and column 8, lines 47-57), a means for hashing (column 7, lines 6-19 and column 8, lines 47-57), a means for signing said digest (column 7, lines 6-19 and column 8, lines 47-57), and a means for appending (column 7, lines 6-19 and column 8, lines 47-57).

8. As per claim 3, in addition to the teachings applied above, Fischer discloses a means for verifying (column 6, lines 43-58; column 7, lines 59-62; and column 8, lines 64-68).

9. As per claims 22 and 30, Fischer discloses the following:

A trusted time source to provide a certifiable time for an unalterable time stamp ... (Figure 3, elements 1, 12, 14, 44, and associated text)

A computing means ... (Figure 1, element 4 and associated text; Figure 3, element 1 and associated text)

An application means ... (col. 4:49-53; col. 7:51-53; Fig. 2, elements 22, 26, 28 and associated text; Fig. 3, element 1 and associated text; Fig. 4, element 440 and associated text)

Means for receiving said request... (Figure 1, element 4; col. 7:13-20, 45-48; and col. 8:47-57);

Means for determining said selection of said trusted time source... (col. 4:49-53; col. 7:51-53; Fig. 2, elements 22, 26, 28 and associated text; Fig. 3, element 1 and associated text; Fig. 4, element 440 and associated text);

First means for saving said digital data file... (Figure 1, element 4; col. 7:13-20, 45-48; and col. 8:47-57);

Means for retrieving from said trusted time source a data and a time corresponding to said moment in time... (col. 4:49-53; col. 7:51-53; Fig. 2, elements 22, 26, 28, and associated text; Figure 3, elements 1, 12, 14, 44, and associated text; Fig. 4, element 440 and associated text);

First means for appending said date and said time retrieved from said trusted time source to said digital data file (Figure 1, element 4 and associated text; Fig. 3, elements 1, 12, 14, 40, 41, 42, 44, 48, 50, 54, 58, 60, 61, 62, and associated text; Fig. 4, elements 410, 430, 440, 450, 460, and associated text; Fig. 5, elements 500, 510, 520, 570 and associated text; col. 7:13-20, 45-48; and col. 8:47-57);

First means for signing said digital data file with said date and said time retrieved from said trusted time source appended thereto (Figure 1, element 4 and associated text; Fig. 3, elements 1, 12, 14, 40, 41, 42, 44, 48, 50, 54, 58, 60, 61, 62, and associated text; Fig. 4, elements 410, 430, 440, 450, 460, and associated text; Fig. 5, elements 500, 510, 520, 570 and associated text; col. 7:6-20, 45-48; and col. 8:47-57);

Means for hashing ... (see claim 2 rejection);

Second means for signing said digest... (see claim 2 rejection);

Second means for appending said certificate... (see claim 2 rejection; col. 7:6-19; col. 8:47-57);

Second means for saving said digital data file... (Figure 1, element 4 and associated text; Fig. 3, elements 1, 12, 14, 40, 41, 42, 44, 48, 50, 54, 58, 60, 61, 62, and associated text; Fig. 4, elements 410, 430, 440, 450, 460, and associated text; Fig. 5, elements 500, 510, 520, 570 and associated text; col. 7:6-20, 45-48; and col. 8:47-57);

Means for verifying trust ... (Figure 1, element 4 and associated text; Fig. 3, elements 1, 12, 14, 40, 41, 42, 44, 48, 50, 54, 58, 60, 61, 62, and

associated text; Fig. 4, elements 410, 430, 440, 450, 460, and associated text; Fig. 5, elements 500, 510, 520, 570 and associated text; col. 6:43-58; col. 7:6-20, 59-62; and col. 8:47-57, 64-68).

10. As per claims 4, 25, and 33, in addition to the teachings applied above, Fischer discloses a means for signing said saved file (column 7, lines 59-62 and column 8, lines 64-68).

11. As per claims 5, 27, and 35, in addition to the teachings applied above, Fischer discloses that said ID is selected (column 6, lines 12-14; column 7, lines 6-19; and column 9, line 63 to column 10, line 2).

12. As per claims 6, 26, and 34, in addition to the teachings applied above, Fischer discloses that said ID corresponding to a system used by said user is elected (column 5, lines 64-68 and column 7, lines 6-19).

13. As per claim 8, in addition to the teachings applied above, Fischer discloses a real time clock (Figure 3, elements 12 and 14 and column 3, lines 61-64) and a battery (column 4, lines 10-15).

14. As per claims 15-20, in addition to the teachings applied above, Fischer discloses that the said moment in time corresponds to an access (column 7, lines 13-19, 51-59, and 63-67), a creation (column 7, lines 13-19), a modification

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(column 7, lines 51-59), a receipt (column 7, lines 63-67), a saving (column 7, lines 51-56), and a transmission (column 7, lines 63-67).

15. As per claim 21, 23, and 31, in addition to the teachings applied above, Fischer discloses the step of preventing changes to the system clock (column 3, lines 16-20 and 31-35 and column 5, lines 48-58).

Claim Rejections - 35 USC § 103

16. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

17. Claims 7, 28, and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fischer (US005422953A) as applied to claims 1-6, 8-11, 15-22, 25, 30, and 33 above, and further in view of Ballard (US005910988A). In addition to the teachings applied above, while Fischer discloses a user ID (Fischer - column 6, lines 12-14; column 7, lines 6-19; and column 9, line 63 to column 10, line 2), Fischer fails to expressly disclose that the user ID is selected from the group consisting of a plurality of characters, an iris scan, a retina scan, a finger scan, a hand geometry, a voice, and a signature identifying said user or combinations thereof. However, Ballard discloses this feature (Ballard - column 6, lines 33-36 and 45-50 and column 14, line 62 to column 15, line 9). Therefore,

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it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Fischer by selecting the user ID from this group consisting of various forms of biometric data as per the teachings of Ballard. One would have been motivated to do so in order to verify the identity of the user (Ballard – column 14, line 62 to column 15, line 9) and to combine digital time notarization into a digital signature operation (Fischer – abstract).

18. Claims 12-13, 24, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fischer (US005422953A) as applied to claims 1-6, 8-11, 15-22, and 30 above, and further in view of Aisenberg et al (US006209090B1). In addition to the teachings applied above, while Fischer discloses pluralities of time-date stamping instances (see repeatable time-date stamping operation in Fischer - abstract) and a plurality of application calls unrelated to the operating system means (Fischer – column 8, lines 23-26), Fischer fails to expressly disclose a first plurality of operating system calls which are unrelated to the application and a second plurality of operating system calls relating to the application. However, Aisenberg et al discloses these features (Aisenberg et al – column 10, lines 8-35). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Fischer by including two pluralities of operating system calls respectively unrelated to and related to the application as per the teachings of Aisenberg et al. One would have been motivated to do so in order to allow a time stamp to be requested in a variety of settings (Aisenberg et al - column 10, lines 8-35).

19. Claims 14, 29, and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fischer (US005422953A) as applied to claims 1-6, 8-11, 15-22, and 30 above, and further in view of McCall et al (US005970146A). In addition to the teachings applied above, while Fischer discloses a trusted time source (Fischer - Figure 3, elements 12 and 14), Fischer fails to expressly disclose the step of providing a tamper-evident means for labeling this time source. However, McCall et al discloses this feature (McCall et al - column 4, lines 51-67 and claim 7). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Fischer by applying the tamper-evident label taught by McCall et al to the trusted time source. One would have been motivated to do so in order to protect the time source from duplication and from tampering (McCall et al - column 4, lines 51-67).

Conclusion

20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

21. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

22. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Curcio whose telephone number is 703-305-8887. The examiner can normally be reached on Tuesday through Friday from 7 am to 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Dam, can be reached on Tuesday through Friday from 7:30 am to 4:30 pm and on alternate Mondays from 7:30 am to 4:30 pm. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through

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Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

je

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